



October 23, 2019

Mr. Nicholas Cunningham
SENT VIA E-MAIL: 81776-79695162@requests.muckrock.com

RE: Acknowledgment for FOIA Request 2020-00005

Dear Mr. Cunningham,

This letter is a supplement to OPIC's October 23, 2019 acknowledgment letter for your October 14, 2019 Freedom of Information Act (FOIA) assigned FOIA Number 2020-00005. You requested:

- 1) All email correspondence between OPIC staff and Vista Oil and Gas Argentina S.A.U. over the past two years, and**
- 2) All documents relating to Vista Oil and Gas Argentina S.A.U. over the past two years.**

Your request is being processed under the Freedom of Information Act (FOIA), which can be found at Section 552 of Title 5 of the United States Code. The FOIA requires OPIC to search records within the agency's control and that are reasonably likely to produce your requested records.¹ In order to ensure that an agency can do this, the FOIA requires that requesters reasonably describe the records sought so that an agency staff member can determine what records are responsive and where they can be located with a reasonable amount of effort.² An agency should consider each request and give a reasonable interpretation to its terms and overall content.³

Requests for all records related in any way to a particular subject or person held anywhere within the agency are not reasonably described. Accordingly, the FOIA Office generally interprets requests for "all records" related to a project to be requests for the project files held by the project team. Accordingly, Item 1 of your request is interpreted as a request for all e-mail correspondence between the OPIC project team and Vista Oil and Gas Argentina over

¹ See, e.g. Weisberg v. DOJ, 705 F.2d 1344, 1351 (D.C. Cir. 1983).

² See H.R. Rep. No. 93-876, at 6 (1974), reprinted in 1974 U.S.C.A.N. 6267, 6271; Truitt v. Dep't of State, 897 F.2d 540, 544-45 (D.C. Cir. 1990).

³ See, e.g. LaCedra v. Exec. Office for US Atty's, 317 F.3d 345, 347-48 (D.C. Cir. 2003); Miller v. Casey, 730 F.2d 773, 777 (D.C. Cir. 1984).

the past two years and Item 2 is interpreted as a request for the project files for Vista Oil and Gas Argentina held by the project team over the past two years. Please note that these two categories of records are likely to be mostly if not entirely redundant and that you will be charged for search for both items even if no additional records are located. Also note that processing duplicates increases processing time and will lengthen the FOIA Office's response time. If you do not agree with OPIC's reasonable interpretation of your request, you may propose a different reasonably described request when you respond to this letter.

Please note that as your request seeks *all* project records held by the project officers, you should be aware that similar past requests have involved thousands of records due in part to the frequent use of e-mails and the interconnected work of our product departments, legal department, monitoring department, and accounting departments meaning most e-mails exist in several staff member's files. For example, a recent FOIA request for all project records for another project, excluding correspondence with the project, involved the review of 2,000 e-mails consisting of over 20,000 pages, approximately 4,400 pages of which were duplicates. Completion of the request took almost two years.

In another example, a FOIA request for all project records for two projects, but which excluded information about third parties with which OPIC had no direct contact with, involved the review of over 2,000 e-mails consisting of almost 22,000 pages, approximately 8,600 pages of which were duplicates and approximately 7,000 pages of which were determined to be non-responsive upon manual review. Completion of the request took over 2.25 years. Both requests cover a longer time period than your request, however your request will still require the review of a large volume of records and notice to a large number of third parties as it relates to an environmentally complex project which has completed the application and approval process.

This is notice that as your request requires the review of a large volume of records, it has been categorized as a "complex" request and placed in the complex request queue. This queue is currently backlogged and review on your request will not begin until sufficient resources are available for processing.

Due to the large volume of records involved in a project, OPIC highly recommends requesters target the records they are specifically seeking by name or title if possible. Requests that target a smaller number of specific documents are generally categorized as "simple" requests and processed in a separate queue. In fiscal year 2018, simple requests were processed in an average of 22 working days while complex requests were processed in an average of 156 working days.

If narrowing your request is not possible, OPIC recommends limiting the scope to types of records (only external correspondence, only final versions of agreements, only project e-mails responsive to the search term "environmental & complaint," etc.) and using date ranges and author or department limits (in the Structured Finance department, sent to Mr. John Doe, etc.). If you wish to speak to our office about ways in which to clarify and limit your request, please call me directly at the number below. If you still wish to request all records related to the project, please be sure to authorize sufficient fees under the fee structure explained in OPIC's October 23, 2019 letter. OPIC will provide a completion estimate for your particular request once it has completed searching for responsive records. You may request all project records held by the

project team under the FOIA, however to avoid unnecessary consumption of agency resources, OPIC requires you to affirmatively acknowledge that you intended for your request to be extremely broad and do not wish to narrow your request, even though it will likely incur significant processing time.

Your request did not include a fee authorization. OPIC's October 23, 2019 request notified you that a fee authorization of \$25.00 would be presumed under OPIC's regulations. This letter is also notice that OPIC expects fees for the processing of your request to exceed \$25.00. As explained in OPIC's October 23, 2019 request, as an "all other requesters" you are responsible for search fees after the first two hours. OPIC is unable to estimate fees until search is complete as the volume and complexity of records for a particular project vary greatly. The FOIA Office has had very few instances where a requester in a fee incurring category has requested all project records, however for reference a 2018 request for a large volume of records related to another environmentally complex project incurred 11.50 hours of search time. Please authorize a fee amount for the processing of your request. Once that fee limit is reached, OPIC will pause processing and contact you. Note that you will only be charged for fees actually incurred, regardless of the approved amount, but that you will be charged for all fees actually incurred within your approved amount, even if it does not result in the release of information.

Processing on your FOIA request will not begin until: 1) you have provided confirmation on the scope of your FOIA request as requested above, 2) you have provided a fee authorization, and 3) sufficient FOIA resources are available to process your complex request.

If you have any questions, I may be contacted by e-mail at Nichole.Skoyles@opic.gov. Please reference the FOIA number assigned to your request when contacting me.

You may contact me or the FOIA Public Liaison for any further assistance and to discuss any aspect of your request. Please reference the FOIA number assigned to your request in all correspondence regarding your request. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire

about FOIA dispute resolution services they offer. The contact information for OGIS is as follows:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road-OGIS
College Park, MD 20740-6001
Email: ogis@nara.gov
Phone: 202-741-5770 | Toll Free: 877-684-6448 | Fax: 202-741-5769

Sincerely,

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